



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,943	07/03/2003	Kerry McLellan	12620-7	5423
1059 7590 08/19/2009 BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l. 40 KING STREET WEST BOX 401 TORONTO, ON M5H 3Y2 CANADA				
EXAMINER HAIDER, FAWAAD				
ART UNIT 3627		PAPER NUMBER		
MAIL DATE 08/19/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/611,943

Applicant(s)

MCLELLAN ET AL.

Examiner

FAWAAD HAIDER

Art Unit

3627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuebert et al (2002/0165729) in view of Myrick et al (2004/0133446) as supported by the Provisional Application (60/423,045) and Ray (2004/0128207).

Re Claim 1: Kuebert discloses attempting a delivery at a primary location (see Figure 2, [0011]); if the delivery to the primary location fails, communicating from a mobile device a notification to the recipient of an upcoming delivery to a preferred redirection location (see Abstract, [0017, 0041]).

However, Kuebert fails to disclose selecting the preferred redirection location prior to delivery. Myrick discloses selecting the preferred redirection location prior to the delivery and also discloses alternate delivery locations, therefore more than one (Abstract, Figures 1-5, [0008, 0046]). From the teaching of Myrick, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kuebert's invention with Myrick's use of selecting the preferred redirection location prior to delivery

in order to "deliver a package or product to an alternate delivery location (ADL) for pick up by a customer or authorized retriever (see Myrick Abstract)."

However, both Kuebert and Myrick fail to disclose the following limitation. Meanwhile, Ray discloses receiving at the mobile device a response to the notification from the recipient after a failed delivery, wherein the response to the notification is adapted to change the preferred redirection location to an alternative redirection location provided after the failed delivery, and delivering the parcel to the alternative redirection location (see Figures 1-4, [0025]). From the teaching of Ray, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify both Kuebert's and Myrick's inventions with Ray's disclosure of a mobile device in order "for providing item delivery notification (see Ray Abstract)."

Re Claim 3: Kuebert discloses wherein the notification step comprises an email to the recipient (see [0036]).

Re Claim 4: Kuebert discloses wherein the notification step comprises a SMS message to the recipient (see [0036]).

Re Claim 5: Kuebert discloses comprising batching manual records of deliveries (see [0027]).

Re Claim 7: Kuebert discloses wherein prior to step (a), the method further comprises registering with a delivery service (see Figure 1).

Re Claim 8: Kuebert discloses wherein the registration step comprises providing the preferred redirection location to the delivery service (see [0011]).

Re Claim 9: Kuebert discloses wherein the registration step comprises providing the primary location to the delivery service (see [0011]).

Re Claim 10: Kuebert discloses wherein the registration step comprises generating an identifier unique to the recipient (see [0034, 0035, 0037]).

Re Claim 11: Kuebert discloses wherein the registration step comprises generating an identifier unique to the transaction (see [0034, 0035, 0037]).

Re Claim 12: Kuebert discloses wherein the primary location is a residential address of the recipient (see Abstract).

Response to Arguments

3. Applicant's arguments filed 12/18/2008 have been fully considered but are moot in view of the new grounds of rejection.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fawaad Haider/

Examiner Art Unit 3627

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627